IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 30TH AUGUST 2006 / 8TH BHADRA 1928

Bail Appl..No. 5344 of 2006

CRIME NO. 4/2006 OF POTHUKAL FOREST RANGE

PETITIONER/3RD ACCUSED.

MANOJ ALIAS THOMAS K.G.
KEEKKATTIL HOUSE, P.O.UPPEDA,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: DEFACTO COMPLAINANT.STATE.

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1. THE FOREST RANGE OFFICER,
POTHUKAL RANGE, NILAMBUR, MALAPPURAM DISTRICT.

2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 5344/2006

DATED THIS THE 30TH DAY OF AUGUST, 2006

O R D E R

The petitioner is the third accused, in C.R.No.4/2006 of Pothukal Forest Range. The offence alleged against the petitioner and others are punishable under Sections 2(2), (16), (32), (35) & (37); 9, 39, 50 and 51 of the Wild Life (Protection) Act, 1972, and Section 27 (1)(e) of the Kerala Forest Act.

2. It is alleged that accused Nos.1 and 2 were found with the meat of wild boar and a knife for preparing the meat. On interrogation, they had confessed that the petitioner, the third accused, shot down the wild boar with a gun. The investigation reveal that the petitioner was not having a licensed gun.

3. The prosecution submitted that the petitioner is required to be arrested, for the recovery of the gun and for the purpose of the interrogation.

4. The counsel, however, submitted that the

petitioner is not at all involved in the case and he is not in possession of any gun, as alleged against him.

5. I had gone through the instructions supplied to the prosecution as well as the C.D file. The involvement of the petitioner, in shooting down the wild boar, in the light of the confession statement of accused 1 and 2, had to be, prima facie, seen at the time of the consideration of the bail application.

6. Therefore, in the light of the statement of the petitioner, granting of a pre-arrest order would be against the interest of the prosecution. Therefore, I am not inclined to grant an order, under Section 438 Cr.P.C.

7. However, this order will not stand in the way of the learned counsel, advising the third accused, the petitioner, to work out his own remedy, as per the law.

The application is dismissed of as above.

J.M.JAMES
JUDGE

mrcs